

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

YUKIO KUSADA,
Plaintiff,

v.

BERKSHIRE EAST SKI RESORT, UNION
TERMINAL PIERS, INC.,
Defendants,

and

NORTHFIELD MOUNT HERMON SCHOOL,
FRANCIS MILLARD AND MICHAEL
ATKINS
Defendant and
Third-Party Plaintiff,

v.

TAKERU KUSADA,
Third-Party Defendant.

Civil Action No. 05-30043-MAP

AFFIDAVIT OF FRANCIS MILLARD

I, Francis Millard, on oath depose and say:

1. I reside at 75 Highland Avenue, Northfield, Massachusetts.
2. I have been employed at Northfield Mount Hermon School ("NMH") since 1985.
3. NMH is a Massachusetts educational institution which had a usual place of business at 206 Main Street, Northfield, Massachusetts in 2003-2004.
4. NMH had two campuses in 2004, a Northfield campus and a Mount Hermon Campus. The campuses were about five miles apart.
5. I was Chair of the Physical Education and Athletics Department at NMH in 2003-2004.
6. I am familiar with the Recreational Ski program at NMH.

7. Michael Atkins was the Coordinator of Physical Education in 2003-2004.
8. I was the direct supervisor for Michael Atkins in 2003-2004.
9. In 2003-2004, the Coordinator of Physical Education was the supervisor for the Recreational Ski program.
10. NMH has had a Recreational Ski program for over thirty years.
11. NMH had been taking its students in its Recreational Ski program to Berkshire East, a ski area located in Charlemont, Massachusetts for over thirty years.
12. Approximately 3,000 students have participated in the Recreational Ski program since its inception.
13. The Recreational Ski program is an elective.
14. Students receive credit toward their physical education requirement for their participation in the Recreational Ski program.
15. There is no testing for the Recreational Ski program.
16. The only requirements of the Recreational Ski program are participation and attendance.
17. Each year, including 2003-2004, I contacted Berkshire East to make arrangements for the Recreational Ski program at Berkshire East that year.
18. I have skied at Berkshire East many times and I am familiar with Berkshire East.
19. Berkshire East is a recognized and well supervised ski area.
20. It is in all respects an appropriate ski area for the NMH Recreational Ski program.
21. Berkshire East has a ski patrol which patrols the mountain. It also has a first aid station and EMT's.

22. Many of the public and private schools in the geographical area bring their students to Berkshire East for the recreational ski program.

23. Helmets were strongly recommended but not required for participants in the NMH Recreational Ski program.

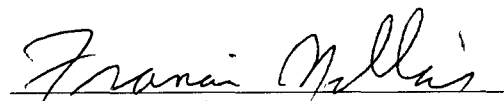
24. Helmets were not required by Berkshire East.

25. Helmets were not required to my knowledge by any private secondary or public school in our geographical area for a recreational ski program from the time I first assumed the duties of Chairman of the Athletic Department at NMH through February 20, 2004 when Yukio Kusada was injured.

26. Helmets, to my knowledge, were not required equipment by law in Massachusetts in 2003-2004 for skiers participating in a recreational ski program offered by a private secondary school.

27. Helmets, to my knowledge, were not required by any ski association for recreational skiers in 2003-2004.

Signed under the pains and penalties of perjury this 16 day of November, 2006.


Francis Millard

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CERTIFICATE OF SERVICE

I hereby certify that the document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on November 27, 2006, via first class mail.


Harold W. Potter, Jr.